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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,129	04/01/2004	Jerome Tomlin	TOMLIN-2	9623
545	7590	09/23/2005	EXAMINER	
ANTHONY H. HANDAL KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP 599 Lexington Avenue 33rd Floor New York, NY 10022-6030			MATHEW, FENN C	
			ART UNIT	PAPER NUMBER
			3764	
DATE MAILED: 09/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/816,129	TOMLIN, JEROME
	Examiner	Art Unit
	Fenn C. Mathew	3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-2, 5-6, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Netti (U.S. 4,330,120). Please refer to paragraph 2 of the office action dated April 20, 2005. With regards to claim 13, the limitations are substantially similar in scope to the limitations of the above referenced claims.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 3-4, 7-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Netti in view of Jackson, Jr. (U.S. 3,759,510). Please refer to paragraph 4 of the above cited office action for discussion of claims 3-4 and newly presented claim 14, which is similar in scope to previously rejected claims 3 and 4. With reference to claim 7, Netti teaches the claimed device except for closed-ended finger receiving members. In view of the notoriously old teachings of providing closed-ended finger loops in weighted gloves, as evidenced by Jackson, Jr., it would have been obvious to provide closed-ended finger receiving members in order to protect the fingertips. With respect to claims 8-10, Netti teaches a plurality of securement straps (37) extending around the weight. Furthermore, Netti teaches the forearm weights lying

between the glove section and one of the securement straps. With respect to claim 11, the specific length chosen for the forearm section is considered a matter of obvious design choice, absent criticality or unexpected results. Furthermore, length is relative to the specific user, depending on the relative lengths of two individuals' arms. A glove fitted for a short-limbed person would not encompass the entire forearm of a user with much longer limbs. With respect to claim 12, Netti teaches fastening members comprising adjustable straps (37).

Response to Arguments

5. Applicant's arguments filed 07/12/2005 have been fully considered but they are not persuasive. Examiner points out that the weight may be removed from the glove section thereby resulting in an 'unweighted' glove section. Examiner further points out straps taught by Netti. With regards to length of the forearm section, see discussion above. With respect to arguments drawn towards the combination of Netti and Jackson, Jr., Jackson, Jr. teaches the desirability of pellet weights thus providing motivation for the proposed combination.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.C.M
fcm
9/2/05

Michael A. Brown

MICHAEL A. BROWN
PRIMARY EXAMINER